

## EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**INDIGO WILLIAMS, ET AL.**

**PLAINTIFFS**

**V.**

**CAUSE NO. 3:17-cv-404-WHB-LRA**

**PHIL BRYANT, ET AL.**

**DEFENDANTS**

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**DECLARATION OF PROFESSOR VERNON BURTON**

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COUNTY OF PICKENS

STATE OF SOUTH CAROLINA

I am Orville Vernon Burton, a professor of History and Pan African Studies and Sociology at Clemson University. I received my undergraduate degree from Furman University and my Ph.D. in American history from Princeton University. I am the author of *The Age of Lincoln* and an expert in Reconstruction. A short biography and my full *curriculum vitae* accompany this declaration as an exhibit to the Plaintiffs' response. The facts attested to herein are within my knowledge as a historian and are the product of my research on these subjects.

The purpose of this declaration is to explain that Reconstruction's overarching purpose was to establish republican forms of government in the South, including in Mississippi. In order to do this, the federal government had to dismantle and restructure the political, economic, and social hierarchies of southern society to integrate (literally) a new population of citizens. I am eager to testify that Congress understood that education for freedpeople would forever remain key to this restructuring.

Governments have not always extended either democracy or education to all denizens. Reconstruction was the U.S. Congress's attempt to extend universal male suffrage, and access to

public education proved to be necessary as a way to maintain rights of citizenship.<sup>1</sup> Public education was an indispensable part of Congress's plan to raise newly freed African Americans into full citizenship. The State of Mississippi's refusal to acknowledge that relationship, and its broad telling of that era's happenings in its motion to dismiss, collides headlong with the historical record.

### I. Understanding the historiography

The public is finally moving away from the *Gone with the Wind* mythology about the antebellum period and slavery, but Reconstruction myths continue. In popular culture, a view of an overreaching and doomed "tragic" Reconstruction still predominates, maybe not as badly or openly as in the glorification of the Ku Klux Klan in *Birth of a Nation* (1915), but it is there nonetheless. A Democratic Party apparatchik dubbed Reconstruction the "tragic era" following the 1928 election because Democrats feared losing the South in future elections.<sup>2</sup> This interpretation was wrong—both morally and intellectually—but public schools of the former Confederacy taught this narrative well into the 1980s. The major text for Mississippi white and black schoolchildren, *Your Mississippi* (in print until at least 1986), opened the chapter on Reconstruction: "The war was over, but the fighting was not; reconstruction was a worse battle than the war had ever been. . . . The struggle of the state to free itself in the war was hardly more difficult than the struggle to free itself during reconstruction."<sup>3</sup>

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<sup>1</sup> Lawrence Arthur Cremin, *American Education* (Philadelphia: Pennsylvania State University, 1988). Cremin argued that, in the North, public education became seen as an essential part of democracy, but this view of education was sorely lacking in the South.

<sup>2</sup> Charles Bowers, *Tragic Era: The Revolution after Lincoln* (New York: Houghton Mifflin, 1929).

<sup>3</sup> Throughout its too-long run, the textbook was published under different titles. John K. Bettersworth, *Mississippi* (Austin: Steck Vaughn, 1964), 222. For more information on the use of this text, see James W. Loewen and Charles Sallis, *Mississippi: Conflict and Change* (New York: Pantheon Books, 1974); *Loewen et al. v. Turnipseed, et al.* (488 F. Supp. 1138). See Rebecca Miller Davis, "The Three R's—Reading, 'Riting, and Race: The Evolution of Race in Mississippi History Textbooks," *The Journal of Mississippi History* 77 (Spring 2010), esp. pp. 14, 16, 21, 36, and 40; Kevin B. Johnson, "Guardians of Historical Knowledge: Textbook Politics, Conservative Activism, and School Reform in Mississippi, 1928–1982" (PhD Mississippi State University, 2014);

When I was in graduate school at Princeton University in 1969 and the early 1970s, professional historians viewed Reconstruction as a tragic chapter in American history—not tragic as the general public or the Mississippi textbook portrayed, but tragic because it ultimately failed to achieve lasting equality and dignity for African Americans. A noble, successful experiment in interracial republicanism ended with a coup d'etat in the United States, and Mississippi spearheaded this violent overthrow of a democratically elected government in 1875. In the Civil War, at least one man died for every six persons emancipated, and despite this great price the pain and suffering continued through Reconstruction. Although we have no definitive count, many died as the result of deliberate political violence during Reconstruction: At least one thousand African Americans died in Louisiana. In South Carolina, seven Republican state legislators were assassinated between 1868 and 1876, and Red Shirt terrorists killed at least one hundred African Americans in 1876 alone. At least one thousand black and white Republicans were murdered in Mississippi.<sup>4</sup>

And yet, by the end of the 1800s, the U.S. Congress, weary of labor disputes throughout the North and weary of the continued recalcitrance of southern whites, was more interested in railroads and expansion to the West than in continuing social, economic, and political reconstruction in the South. Enough members of Congress turned their back on the freedpeople, no longer willing to secure their rights of citizenship. Power reverted to the white southern

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<http://historynewsnetwork.org/blog/153548> (last accessed Oct. 14, 2016). University of Mississippi historian Charles Eagles has just published a book detailing the story of getting the Loewen and Sallis book accepted for use in Mississippi: Charles Eagles, *Civil Rights, Culture Wars* (Chapel Hill: University of North Carolina Press, 2017).

<sup>4</sup> Orville Vernon Burton, Terence R. Finnegan, Peyton McCrary, and James W. Loewen, "South Carolina," in *Quiet Revolution in the South*, ed. Chandler Davidson and Bernard Grofman (Princeton: Princeton University Press, 1994), 192; James W. Loewen and Charles Sallis, *Mississippi* (New York: Pantheon Books, 1982); Michael W. Fitzgerald, *The Union League and Social Change in the Deep South During Reconstruction* (Baton Rouge: Louisiana State University, 1989); Michael W. Fitzgerald, *Splendid Failure* (Chicago: Ivan R. Dee, 2007); Douglas R. Egerton, *The Wars of Reconstruction* (New York: Bloomsbury Press, 2014); William C. Harris, *The Day of the Carpetbagger: Republican Reconstruction in Mississippi* (Baton Rouge: Louisiana State University, 1979).

traditional landowning elite, and white supremacy prevailed. Part of the new understanding of Reconstruction as a tragedy was the betrayal of Mississippi's commitment to education for African Americans, which had been a fundamental condition for Mississippi representatives to be readmitted to Congress after the Civil War. Unfortunately, Reconstruction remains misunderstood, and the State's motion to dismiss operates under the older distortion of history.

## **II. Education is fundamental to republicanism**

The quintessential Republican, Abraham Lincoln, understood that republicanism depended on an educated electorate. Lincoln also believed in the premium importance of education. Lincoln had a long history of supporting democratic efforts in education. In his first known public statement, "To the People of Sangamon County," on March 9, 1832, Lincoln announced he was running for Illinois's legislature. He declared, "Upon the subject of education ... I can only say that I view it as the most important subject which we as a people can be engaged in."<sup>5</sup>

Lincoln's emphasis on education only increased through his political career. By the time Lincoln gave his 1859 "Address to the Wisconsin State Agricultural Society," the Republican Party had been formed, and a cornerstone of its platform was Free Labor ideology. His speech in Wisconsin responded to South Carolina Senator James Henry Hammond's "mudsill theory." The mudsill theory stated that every society needed a class of people on the lowest rung; in the South, enslaved laborers held that position. Lincoln's speech defended free labor and underscored his belief in the need for education in a free society. He said, "By the 'mudsill' theory it is assumed that labor and education are incompatible, and any practical combination of them impossible." Lincoln juxtaposed this with Free Labor ideology: "But free labor says 'no!' Free labor argues

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<sup>5</sup> Burton, *Essential Lincoln* (New York: Hill and Wang, 2009), 4.

that, as the Author of man makes every individual with one head and one pair of hands, it was probably intended ... that that particular head should direct and control that particular pair of hands....In one word free labor insists on universal education.”<sup>6</sup> Free labor was an integral principle of Lincoln’s vision of republicanism. It then follows that during Reconstruction, freedpeople were now free laborers, and thus deserved and required education. Lincoln’s and the Republican Party’s vision responded to the state of education in the antebellum South. Lincoln knew that the system of slavery necessitated an illiterate and uneducated population of enslaved laborers.

Long before the Civil War, southern states put into place laws making it illegal to teach enslaved laborers to read and write. Such laws began in the colonial period but became harsher in the 1830s–1850s. For example, a Mississippi statute declared that teaching a slave to read was punishable with thirty-nine lashes.<sup>7</sup> Laws fining, imprisoning, and whipping those who taught slaves to read and write proliferated in the South in the eighteenth and nineteenth centuries. Despite such threats, enslaved African Americans yearned to read. Scholars have devoted tomes to enslaved laborers’ religion, and the ability to read provided African Americans the opportunity to read the Bible.<sup>8</sup> Furthermore, African Americans knew the power of the written word. Reading and writing would allow them some protection from exploitative contracts. Scholars show that African Americans have always prioritized education.<sup>9</sup> Following the Civil War,

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<sup>6</sup> Burton, *Essential Lincoln*, 68–69. (“Address to the Wisconsin State Agricultural Society,” September 30, 1859).

<sup>7</sup> Heather Andrea Williams, *Self-Taught: African American Education in Slavery and Freedom* (Chapel Hill: University of North Carolina Press, 2005), 18.

<sup>8</sup> Many enslavers who did teach their enslaved labor to read did so for the religious aspects of having obedient, Christian slaves. The Bible, however, also subverted the entire system of slavery, which is perhaps why some enslavers forbade reading, even the Bible.

<sup>9</sup> James D. Anderson, *The Education of Blacks in the South* (Chapel Hill: University of North Carolina, 1988); Williams, *Self-Taught*; Ronald E. Butchart, *Schooling the Freed People: Teaching, Learning, and the Struggle for Black Freedom, 1861–1876* (Chapel Hill: University of North Carolina Press, 2010); Burton, *Penn Center*; Burton, *In My Father’s House Are Many Mansions*; Burton, *Age of Lincoln*.

Congress intended education during Reconstruction to prepare African Americans to use all the tools of American citizenship and to guarantee republican forms of government.

### **III. Reconstruction politicians saw education as central to restructuring southern society**

Emancipation proved a time of great promise. Freed from the shackles of slavery, first by the Emancipation Proclamation and then by the Thirteenth Amendment, African Americans envisioned their new lives as citizens of the United States. With the conclusion of the war in 1865, politicians put their attention on two major and related issues. The first question was how to restore the former Confederate states into the Union; the second question was how to incorporate former slaves in southern society. The answer to the first question (when and how to readmit Confederate states to Congress) became dependent on the answer to the second question (what was the place of freedpeople in the South). The postwar goal was a quick restoration of Confederate states. Editor Horace Greeley wrote that Republicans were “anxious for an early and general amnesty for Rebels and the prompt restoration of the states,”<sup>10</sup> but those whites controlling southern states remained recalcitrant.

Lincoln was assassinated days after Lee’s surrender, and so he presided over little of Reconstruction. Lincoln, other Republicans, Unionists, and northern Democrats all had different ideas on what postwar America should look like. Lincoln proposed his 10 Percent plan, which would allow for quick restoration of Confederate states to full statehood in the Union. Although he set the bar low for readmission, from what we know of Lincoln, he did not see readmission as the end of Reconstruction. He envisioned restructuring southern society to integrate freedpeople as citizens. In an 1863 letter to Nathaniel P. Banks, the Union general in charge of occupied

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<sup>10</sup> Greeley, *Buffalo Express* in *New York Times*, May 11, 1867, quoted in Blight, *Race and Reunion* (Cambridge: Harvard University, 2001), 50.

Louisiana, Lincoln expressed his vision for Reconstruction. He advocated a “practical system” to restructure race relations in the South and commented, “Education for young blacks should be included in the plan,” thus ensuring a republican form of government.<sup>11</sup> Lincoln’s plans were more far reaching than a quick readmission; he wanted to rebuild the South’s society. And here we see that Lincoln’s vision of education had expanded to include African Americans.

In his two greatest speeches, the Gettysburg Address, where he introduced his idea of a “new birth of freedom,” and then again in his Second Inaugural, Lincoln spoke of the nation’s “unfinished work.” A commitment to the vote for African Americans coupled with education was central to Lincoln’s vision of a new birth of freedom, the unfinished work, and republicanism. Unfortunately, Lincoln did not live, and Andrew Johnson had a narrower view of Reconstruction.

Following the Civil War, southern states began implementing Black Codes, essentially rewriting old slave codes but replacing “slaves” with “freedpeople.” The Black Codes and the exploitative practices of sharecropping made clear white Southerners’ stance on freedpeople’s place in society. In the years immediately following the Civil War, African Americans comprised the majority of Mississippi’s population; at the time of secession the state’s population had been 55.3 percent African American,<sup>12</sup> yet without the franchise they had limited recourse against exploitation. Freedpeople knew that voting provided the only way to protect themselves. In 1866, African Americans in Vicksburg and Natchez wrote a petition demanding suffrage. Senator Charles Sumner read the petition to Congress.<sup>13</sup> Congressman Thaddeus Stevens recommended forming the Joint Commission on Reconstruction. Many who testified to

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<sup>11</sup> Burton, *Essential Lincoln*, 145. (“Letter to Nathaniel P. Banks (Louisiana) on Reconstruction,” August 5, 1863).

<sup>12</sup> Burton, *Age of Lincoln*, table 6.1

([https://ageoflincoln.app.clemson.edu/Tables/Entries/2008/5/15\\_Table\\_6.1.html](https://ageoflincoln.app.clemson.edu/Tables/Entries/2008/5/15_Table_6.1.html)).

<sup>13</sup> Christopher Span, *From Cotton Field to Schoolhouse* (Chapel Hill: University of North Carolina Press), 98.

the Joint Committee on Reconstruction indicated that President Johnson's leniency emboldened white Southerners to recreate what they could of their old slave society.<sup>14</sup> The 39<sup>th</sup> Congress saw republicanism as an issue of national security to prevent a future rebellion from the former Confederate states.<sup>15</sup>

Two major agenda items for the Joint Commission on Reconstruction were (1) under what qualifications to readmit Confederate states to Congress and (2) what would become the Fourteenth Amendment. Republicans saw a need to restructure southern society as a way to provide African Americans with the rights of citizenship. Suffrage became the topic of the time, but integral to suffrage was education.

Much of the testimony for the Joint Committee on Reconstruction centered on questions that historians understand to be about republicanism in the South. Members of the committee would ask witnesses about education, voting, labor, landholding, and other tenets of republicanism. For the most part, witnesses expressed concern that any progress freedpeople had made in those areas would immediately be revoked should the federal government withdraw its troops from the former Confederate states. A native white Alabaman who had served in the state legislature and had attended the 1860 Democrat Convention said, "I do not think that Congress should wait for the people of the south to make regulations by which, at some future time, the negroes will be provided with homes, have their rights as freemen acknowledged, by given a participation in civil rights, and be made a part of the framework of the country. They will not do that; you need not wait for it. If Congress can constitutionally commence a system of educating and elevating the negroes, let them do it, and not wait for the people of the south to do it." A

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<sup>14</sup> Testimony of Albert Warren Kelsey (p. 3), Brevet Major Edward Hatch (p. 5), Mordecai Mobley (p. 23), David C. Humphreys (p. 66), Captain J. H. Matthews (p. 142) to Joint Committee on Reconstruction, Part III.

<sup>15</sup> Daniel S. Korobkin, "Republicanism on the Outside: A New Reading of the Reconstruction Congress," *Suffolk University Law Review* 41 (2008): 488.

representative of the General Land Office in the Interior Department exclaimed, “I can only say, if the troops be removed, God help the freed people! for they can look for nothing practical from their former masters.”<sup>16</sup> Under Andrew Johnson’s Presidential Reconstruction, whites controlling the southern states did not extend the ideals of republicanism to freedpeople.

The Committee asked many of the witnesses about the state of education—what were states offering to educate freedpeople and were African Americans interested in education? The response was that states did little to offer schools, and at times actively worked to forestall black education. On the part of freedpeople, “The disposition is universal among them, especially among the younger portion, to acquire education,” that their interest was “not only general, but I can say universal. I have never found any community of blacks … where I did not find in them an eagerness to learn, either on their own part or especially for their children”; the freedpeople “have an intense desire to learn to read and write. They crowd all the schools that are established for their education by the benevolent people of the north. There are many night schools for adults, in which they make creditable progress in reading and writing,” and that they believed education was a means “To improve every opportunity. That seems to be an extravagant statement, and yet I can deliberately and truly make it.”<sup>17</sup>

#### **IV. Southern school systems during Reconstruction**

The debates and legislation in Washington, D.C., certainly affected people back in their home states, but life at the local level in Reconstruction looked different on the ground than it did from the Capitol.

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<sup>16</sup> Testimony of David C. Humphreys and Mordecai Mobley to Joint Committee on Reconstruction, Part III, 66, 23.

<sup>17</sup> Testimony of Major General George H. Thomas (28), Brigadier General Charles H. Howard (34–35), Brevet Major General Rufus Saxton (102), and W. A. P. Dillingham (118) to Joint Committee on Reconstruction, Part III.

As historian Eric Foner proffered, everything became “battleground between former master and former slave.”<sup>18</sup> Just as whites in Mississippi had enacted Black Codes to keep the freedpeople in a slave-like position, they began to do what they could to keep freedpeople from attending schools. Cotton plantations had made antebellum Mississippi very rich. Emancipation meant the loss of \$218 million worth of property in enslaved laborers, not to mention the societal loss of control over freedpeople. Education historian Chris Span explained, “To most whites, schools for freedpeople represented both the perceived and real loss of the economic, political, social, and psychological control they had maintained over African Americans—in one form or another—before the war.”<sup>19</sup> Between 1865 and 1869, white planters across southern states coerced African Americans from attending schools through such measures as terminating employment of workers or not allowing children to attend school. James Anderson, another education historian, explained white Mississippians’ motivation: “The planters, with few exceptions, viewed black education as a distinct threat to the racially qualified form of labor exploitation upon which their agrarian order depended.” Furthermore, agricultural work demanded child labor, thus making education of children especially anti-labor in their views.<sup>20</sup>

A struggle erupted between freedpeople and planters over who would control schools. Whoever controlled the schools would control the purpose of the schools: would they be schools to attain an education for an improved citizenry in the tradition of the Enlightenment, or would they be schools whose purpose was to control laborers? The planter class wanted to control schools as a way of controlling freedpeople and to ensure the curriculum fit with the dominant racial order. The *Selma Times* printed, “If it ever was good policy to keep them ignorant, it

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<sup>18</sup> Foner, *Nothing But Freedom* (Baton Rouge: Louisiana State University, 2007), 3.

<sup>19</sup> Span, *From Cotton Field to Schoolhouse*, 86–87, 102.

<sup>20</sup> Anderson, *Education of Blacks in the South*, 22–23.

certainly is no longer so, but the very reverse. The right of suffrage will, in all probability, be given to this people at some future day. If we don't teach them some one [*sic*] else will, and whoever thus benefits them will win an influence over them which will control their votes.”<sup>21</sup>

Even before the war had ended, African Americans had established schools for themselves, often with the aid of the Freedman’s Bureau or northern societies. These grassroots schools in Mississippi fell victim to their own success. The schools taught not only the basics—reading, writing, and arithmetic—but also instilled in freedpeople aspirations of full and equal citizenship. The schools provided freedpeople with independence. In contrast, whites saw African Americans as laborers and nothing more; schools would only diminish their capacity as good laborers.<sup>22</sup> Most white Southerners believed that education would “be a positive injury to labor; that the negro would not work as well; in fact, upon the general ground that the education of the laborer is injurious to the interests of labor.”<sup>23</sup>

White Mississippians responded to African American education with violence. Carl Schurz, who was with the War Department, described the conditions across the South: “The consequence of the prejudice prevailing in the Southern States is that colored schools can be established and carried on with safety only under the protection of our military forces, and that where the latter are withdrawn the former have to go with them.”<sup>24</sup> And white resistance in Mississippi seemed to be stronger than in other southern states.<sup>25</sup> White Mississippians would sometimes burn black schools. Freedpeople—both students and teachers—were the primary targets of violence, but white teachers also faced threats.<sup>26</sup> Native white Mississippians who

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<sup>21</sup> *Selma Times*, June 30, 1866, quoted in Span, *From Cotton Field to Schoolhouse*, 10.

<sup>22</sup> Span, *From Cotton Field to Schoolhouse*, 11, 107.

<sup>23</sup> Testimony of Brigadier General Charles H. Howard to the Joint Committee on Reconstruction, Part III, 34.

<sup>24</sup> *Speeches, Correspondence, and Political Papers of Carl Schurz*, Vol. I, ed. Frederick Bancroft, p. 329.

<sup>25</sup> Testimony of Major General George H. Thomas to Joint Committee on Reconstruction, Part III, 28.

<sup>26</sup> Span, *From Cotton Field to Schoolhouse*, 107–108, 111.

served as teachers at black schools faced more retribution than did northern white teachers, who were “foreigners” and thus not as bound by the local social norms.<sup>27</sup> More frequently, however, northern teachers had trouble finding homes to rent or buildings to conduct classes because the Mississippi white elite resisted their educational efforts. Even when white Mississippians may have been willing to rent or sell, they often refused to do so for fear of retribution or ostracization.<sup>28</sup>

The Ku Klux Klan rose in prominence. The KKK first became active in Mississippi during the 1868 election: intimidating black voters, blocking them from polls, and working on behalf of planters to coerce freedpeople into signing labor contracts.<sup>29</sup> In 1872, the U.S. Congress formed a Joint Select Committee that investigated conditions in the former Confederate states. Testimony regarding Mississippi highlighted that Klan members attacked the teachers of African American schools precisely because they were a bastion of republicanism, providing black Mississippians with tools for citizenship. During such attacks, the Klan would declare that “they were determined that there should be no colored schools kept; that they intended to break up every one of them in the State,” and that schools were “ruining the negroes” because they “got about enough education to make them saucy and mean and dissipated.”<sup>30</sup>

## V. Mississippi state constitutional convention, 1868

As part of the readmission of their representatives to Congress, Confederate states had to have new constitutional conventions with African American participation. Black delegates in every state of the former Confederacy expressed the need for public education, and “by 1870,

<sup>27</sup> James W. Loewen, “School Desegregation in Mississippi” (unpublished paper, 1973), 7.

<sup>28</sup> Span, *From Cotton Field to Schoolhouse*, 110.

<sup>29</sup> Span, *From Cotton Field to Schoolhouse*, 112.

<sup>30</sup> Testimony of Robert W. Flournoy (p. 86), Testimony of Daniel H. Smith (p. 572) to the Joint Select Committee on the Condition of Affairs in the Late Insurrectionary States, and Making of America Project, Vol. 11. The testimony provides many more examples of Klan members attacking, both verbally and physically, African American schools.

every southern state had specific provisions in its constitution to assure a public school system financed by a state fund.”<sup>31</sup>

Of the 100-person assembly for Mississippi’s convention in 1868, at least sixteen delegates were African American.<sup>32</sup> The result of the constitution was a publicly funded school system that provided education for black and white students. Span summed up the education requirement in Mississippi’s constitution: “Public schools in Mississippi were to be free, all-inclusive, and, most important, equitable, irrespective of a child’s gender, race, class, or previous condition of servitude.”<sup>33</sup>

Tabled amendments indicate that delegates did not want to build a segregated dual system into the constitution, but rather an integrated system that provided equal opportunity.<sup>34</sup> Wording in the constitution initially suggested an integrated system (“a school should be maintained in each school district at least four months in the year”<sup>35</sup>); whites rejected this language so framers revised the language: “That *separate schools* for the white and colored children be maintained in each district. And provided further, that should there not be a sufficient number of either race to maintain a separate school, the minority race shall have the privilege of sending [their children] to school in an adjoining district” (emphasis in original).<sup>36</sup> Delegates tabled this amendment. Another tabled amendment was that private schools would be available for black students in very rural areas, for the purpose that white students in predominantly black areas would not have to attend school with African American students. By not allowing de jure

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<sup>31</sup> Anderson, *Education of Blacks in the South*, 19.

<sup>32</sup> Vernon L. Wharton, “The Race Issue in the Overthrow of Reconstruction in Mississippi,” in *The Making of Black America, Vol I: The Origins of Black Americans*, ed. August Meier and Elliott Rudwick (New York: Atheneum, 1969), 370.

<sup>33</sup> Span, *From Cotton Field to Schoolhouse*, 4.

<sup>34</sup> Span, *From Cotton Field to Schoolhouse*, 123.

<sup>35</sup> *Journal of the Proceedings of the Constitutional Convention of the State of Mississippi, 1868*, 148, quoted in Span, *From Cotton Field to Schoolhouse*, 123.

<sup>36</sup> *Journal of the Constitutional Convention*, 316, quoted in Span, *From Cotton Field to Schoolhouse*, 123.

segregation into education, delegates at the constitutional convention left open the door for an integrated public school system. This goal of equal opportunity of education was ingrained as a hallmark of republicanism. It meant that black and white students alike could prepare for their roles as informed laborers and citizens.

Most white Mississippians, whether elite or landless, opposed integrated schools; they saw it as subverting social order and defying God's order. While African Americans would have accepted integrated schools, their first concern was access to public schools at all, even if segregated. As already discussed, most white Mississippians did not want African Americans attending school at all. Rather than fight for integrated schools, a pie-in-the-sky dream, delegates, then, fought for public schools that were not segregated by the constitution. The sixteen African American delegates voted unanimously to table every amendment for segregated schools. One delegate, Henry P. Jacobs, an African American from Natchez, proposed "none of the public money of this state should ever be used in supporting sectional schooling whatever."<sup>37</sup> Black delegates did not push for integrated schools as a means to equality, or even social mixing, but rather because they understood what separate schools would mean in terms of funding and equality of educational opportunities.<sup>38</sup>

Mississippi ratified the new state constitution in December 1869. The framers of the state constitution clearly saw the connection between education and republicanism. Article VIII Section 1 states:

As the stability of a republican form of government depends mainly upon the intelligence and virtue of the people, it shall be the duty of the Legislature to encourage, by all suitable means, the promotion of

<sup>37</sup> Quoted in Span, *From Cotton Field to Schoolhouse*, 125.

<sup>38</sup> Span, *From Cotton Field to Schoolhouse*, 125. During debate over the school clause in the 1875 Civil Rights Bill, an African American representative from Mississippi, John Roy Lynch, an ex-slave and Natchez native, reiterated the same points from the 1868 state constitutional convention: African Americans wanted equal protection, funding, and access for schools and knew that separate schools made them "lesser" than whites (125–26).

intellectual, scientific, moral, and agricultural improvement, by establishing a uniform system of free public schools, by taxation or otherwise, for all children between the ages of five and twenty-one years, and shall, as soon as practicable, establish schools of higher grade.<sup>39</sup>

The constitution did not mandate a racially segregated school system. Rather, it left open the possibility of an integrated system for black and white students to attend school together. A constitution full of promise, and one that demonstrated that broader education rights were an important effort in securing republicanism.

## **VI. Universal Schooling**

Public schools opened October 1870. Henry R. Pease served as the first superintendent. He had come from Connecticut and had been superintendent under the Freedman's Bureau and been a teacher. Pease called the opening, "A success which must be highly gratifying to the friends of popular education, and indeed, to all who earnestly desire the advancement of the moral, intellectual and material interests of the people."<sup>40</sup>

In terms of numbers, Mississippi's public education system was an immediate success. In the first year, the number of black children enrolled in schools increased exponentially. In 1865, more than 3,000 African Americans attended schools. In 1868, the number was 6,200. Between 1867 and 1869, an average of 4,500 black students were in schools. In 1870, the first year of state-funded public schools, there were 45,000 black students enrolled, and by 1875, more than 90,000 black students were in public schools in Mississippi.<sup>41</sup> The number of African American students grew rapidly.

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<sup>39</sup> The Mississippi Constitution of 1868, Article VIII, Section 1 (<http://mshistorynow.mdah.state.ms.us/articles/index.php?s=extra&id=269>, last accessed September 12, 2017).

<sup>40</sup> Span, *From Cotton Field to Schoolhouse*, 128, 118, 133–34.

<sup>41</sup> Span, *From Cotton Field to Schoolhouse*, 120.

In addition to building new facilities, the state also had to build the bureaucracy that a state-funded public school system required. Pease as superintendent was at the top of the organizational ladder. Below him were county superintendents. Below that were school directors, supervisors, and local officers. Republican white Mississippians held most (about 80 percent) of these positions. This confirmed for most white Mississippians that freedpeople and their native and northern white allies had wrested power away from them. Once again, what the majority of Mississippi whites “neglected to take into consideration was the fact that they were no longer the only citizens in the state; blacks were also citizens, and Pease and his administration sought to ensure that individuals throughout the state were hired to advocate on their behalf as well.”<sup>42</sup> This left the dominant white culture in Mississippi poised to reclaim the power they felt they had lost. Historian Vernon L. Wharton explained, “In a state where a frontier code still held much influence, it was inevitable that a campaign appealing to prejudice and hatred should result in much violence, and, in the end, it was violence that carried the campaign for the Democrats.”<sup>43</sup> Wharton also proffered, “It was to this faith in education that Negro leaders appealed when they urged those of their race to disregard the general terror and to go to the polls in 1875. The loss of the ballot would mean the loss of their school, and would forever doom them to be hewers of wood and drawers of water.”<sup>44</sup>

## **VII. Post-Reconstruction education**

According to Wharton, after the terrorist overthrow of the Republican Party in 1875 by white Democrats, “At the time of their surrender in Yazoo County, the only concession the

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<sup>42</sup> Span, *From Cotton Field to Schoolhouse*, 129–30.

<sup>43</sup> Wharton, “The Race Issue in the Overthrow of Reconstruction in Mississippi,” 375.

<sup>44</sup> Vernon L. Wharton, *The Negro in Mississippi, 1865–1890* (Chapel Hill: University of North Carolina, 1949), 246–47.

Negroes asked of the Democrats was the preservation of their school.”<sup>45</sup> White Mississippians did not acquiesce to this request. After the overthrow of Reconstruction, southern governments rolled back the achievements of African American education through means of low taxation and use of violence.<sup>46</sup> At the same time, Mississippi began implementing disfranchising measures. With the violent overthrow of Reconstruction and disfranchisement underway, Mississippi held a new state constitutional convention. The state’s 1890 constitution codified disfranchisement, racial segregation, and retreated from the promises of education in the 1868 constitution. One of the 1890’s disfranchising measures—the literacy test—relied on African Americans to be uneducated. The constitution also established *de jure* segregated schools. After Reconstruction, the state slashed black teachers’ salaries by two-thirds, and many African American schools closed their doors. State funding for education actually increased 1900–1925, but for white students only.<sup>47</sup> By the early 1900s, Mississippi spent ten times more per white student than black student. African Americans’ school year revolved around cultivating and harvesting cotton. Black schoolhouses were dilapidated facilities. In 1946, only one in ten school-age black child was enrolled in Mississippi’s public schools.<sup>48</sup> The post-1890 devolution of black education can be traced directly to the 1890 constitution.

Further, declarant sayeth not.

[Signatures on following page]

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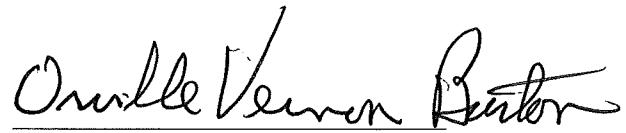
<sup>45</sup> Wharton, *The Negro in Mississippi*, 247.

<sup>46</sup> Anderson, *Education of Blacks in the South*, 23.

<sup>47</sup> Loewen, “School Desegregation in Mississippi,” 9, 5.

<sup>48</sup> Luther Mumford, *Black Gravity: Desegregation in 30 Mississippi Districts* (BA Honors Thesis, Princeton University, 1971), 155–56.

RESPECTFULLY SUBMITTED this Fifteenth day of September 2017.

  
Orville Vernon Burton  
Orville Vernon Burton  
Declarant

Subscribed and sworn before me this 15<sup>th</sup> day of September 2017.

